IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO: 9 OF 2004

AND

WRIT PETITION NO.10149 OF 2004

WRIT PETITION NO.9 OF 2004

Between:

1 M.D.Navala, S/o.Dattatreya Navala,
R/o.MIG II 904, K.P.H.Colony, Hyderabad-42.
2 Satish Chander Sehgal, S/o.Late K.L.Sehgal,
H.No.MIG I/428, K.P.H.Colony, Hyderabad.
3 Smt.Y.Jaya Devi, W/o.Late Y.Venkata Srudu,
H.No.MIG I/455, K.P.H.Colony, Hyderabad.
4 K.Laxmi Narayan, S/o.K.Kotayya,
H.No.MIG II/596, K.P.H.Colony, Hyderabad.
5 C.Narsing Rao, S/o.C.Yadgiri Rao,
H.No.MIG II/575, K.P.H.Colony, Hyderabad.
6 Indrakant, S/.o.G.V.Subhavi,
H.No.MIG II/556, K.P.H.Colony, Hyderabad.
7 Puspavathi, W/o.Late Bhagwan Pras,
H.No.MIG II/581, K.P.H.Colony, Hyderabad.
8 M.Sathya Narayana Reddy, S/o.Surya Reddy,
H.No.MIG I/428, K.P.H.Colony, Hyderabad.

NOTE: WP IS DISMISSED AS WITHDRAWN IN SO FAR AS
PETITIONER NO.8 IS CONCERNED AS PER COURT ORDER
DATED 28.01.2004 IN WP.9 OF 2004.

9 Satya Dev, W/o.Chandi Ram,
H.No.MIG II/859, K.P.H.Colony, Hyderabad.
10 K.Bhawani Shankar, W/o.Rama Murthy,

H.No.MIG II/781, K.P.H.Colony, Hyderabad.

11 M.V.Ramana Naidu,
H.No.MIG II/579, K.P.H.Colony, Hyderabad.

12 P.Sanjeeva Rao, S/o.P.J.Lakshmaiah,
H.No.MIG II 799, K.P.H.Colony, Hyderabad.

13 K.Yellaiah, S/o.K.Rajaiah,
H.No.MIG II 861, K.P.H.Colony, Hyderabad.

14 V.V.L.Norsu, S/o.V.Sampathi Rao,
H.No565 MIG II, K.P.H.Colony, Hyderabad.

... PETITIONERS

AND

1 The Vice Chairman, A.P.Housing Board, Gruhakalpa, M.J.Road, Hyderabad.

2 Executive Engineer, North Division, A.P.Housing Board, Bharathnagar, Hyderabad.

3 The Secretary to Government, Municipal and Housing Department, Secretariat, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly a writ of mandamus, declaring the action of the 2nd respondent by issuing Lr.No.5210/DB/EE(N)/85 dated 21-11-2003 of the 2nd respondent, in response to the representation of the petitioner dated 24-9-2003, is illegal, arbitrary and discriminatory and consequently declare the fixation of cost of MIG I by the respondents Board at Rs.78,600/- as against initial cost of Rs.27,200/- in 1979 and subsequent enhancement to Rs.52,000/- in 1985 and further demanding petitioners a further sum of Rs.16,000/- through F.D.R. for a period of three years and the final fixation of cost of MIG II toRs.94,800/- from Rs.65,000/- is illegal and arbitrary and direct the respondents 1 and 2 to extend the same benefit in Judgments rendered in W.P.No.22312, 22313 of 1996, W.P.Nos.14424, 15160 of 1995 and 8801 of 1996, in the case of the petitioners also.

Counsel for the Petitioners: MR.BATHULA RAJ KIRAN

Counsel for the Respondent No.1: MR.J.PRABHAKAR

Counsel for the Respondent No.2: SC for Housing Board

Counsel for the Respondent No.3: G.P. FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT

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W.P.NO.10149 OF 2004

Between:

P. Gagannatha Varma MIG. II. H.No. 896, K.P.H. COLONY, Hyd - 42.

... PETITIONER

AND

1 Vice Chairman, A.P. Housing Board, Gruhakalpa, Hyd.

2 The Secretary to Govt., Municipal and Housing Dept., Secretariat, Hyd.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly a writ of Mandamus declaring the action of the respondent in discriminating the petitioner and the other alottees who approached the Hon'ble Court and final fixation of the cost of MIG II to Rs.94,800/- from Rs.65,000/- and further demanding the petitioner a sum of Rs.16,000/- to FDR for a period of three years and charging the interest rate is of more than 29% is illegal and arbitrary and further direct the respondents to extend the same benefit in judgment rendered in
W.P. Nos. 22312, 22313 of 1996, W.P. No. 14424, 15160 of 1995 and 8801 of 1996 in case of the petitioner also.

Counsel for the Petitioner: MR.BATHULA VENKATESWARA RAO

Counsel for the Respondent No.1: Mr. J.PRABHAKAR

Counsel for the Respondent No.2: GP FOR HOUSING

The Court made the following:

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.Nos. 9 AND 10149 OF 2004

COMMON ORDER:

Petitioners who were allotted houses constructed by the A.P.Housing Board MIG I and MIG II colonies at Kukatpally, were issued notices in 1994 for payment of the

difference amount in the price and interest thereon. Some of such allottees, who were issued such notices, filed W.P.Nos.14424, 15160 of 1995 and 9100, 18110 and 8801 of 1996.

In W.P.Nos.14424, 15160 of 1995 and 8801 of 1996, questioning the said notice. A learned single Judge, by his order dated 04-04-2003, gave a direction to the Housing Board to collect simple interest only on the differential amount to be paid by those allottees from the date of allotment till the date of passing of the interim order within a period of four weeks from the date of the order, and specifically ordered that that order cannot be treated as a precedent.

Thereafter, another learned single Judge by a common order dated 08-07-2003, disposed of W.P.Nos.9100 and 18110 of 1996 in terms of the order passed in the earlier writ petitions, in spite of the observation in the earlier order that it cannot be treated as a precedent, on the ground that the petitioners before him are similarly situate like the petitioners in the earlier writ petitions. Taking advantage of the orders passed in the above writ petitions, petitioners filed these writ petitions in 2004, seeking the same benefit that was extended to the petitioners in the earlier writ petitions.

2. The contention of the learned counsel for the petitioners is that since the petitioners in the earlier writ petitions are similarly situate like the petitioners in these writ petitions, petitioners in these petitions also are entitled to the same benefit that was extended to the other allottees in the earlier writ petitions. The contention of the learned Standing counsel for the Housing Board is that though there is no limitation for filing writ petitions, these writ petitions are liable to be dismissed only on the ground of delay, because petitioners who were issued notices in 1994 thought fit to question the notice only in 2004 i.e., nearly ten years after they received the notice from the Housing Board, by placing strong reliance on **PRINTERS (MYSORE) LTD. v. M.A.RASHEED ,** where a writ petition filed three years

after the making of allotment and execution of sale deed, was dismissed on the ground of delay. He also relied on **STATE OF KARNATAKA v. S.M. KOTRAYYA** , where the Apex Court held that in the absence of proper explanation for the delay, the fact that that writ petition is filed immediately after coming to know that similar relief was granted to others, would not be a ground for granting relief to the belated petitioners and contends that in view of the laches and negligence of the petitioners, the petitions are liable to be dismissed and contends that the petitioners, in any event, are not entitled to the benefit of reduction in the rate of interest granted to the petitioners in the earlier petitions, because no stay was granted in favour of the petitioners in these writ petitions.

3. Petitioners seek the relief of reduction in interest as was granted to the petitioners in the earlier writ petitions. Petitioners in the earlier writ petitions, which were filed in 1995 and 1996, were directed pay simple interest on the differential amount from the date of allotment till the date of passing of the interim orders in their favour. It means that those allottees also have to pay interest as fixed by the Housing Board from the date of interim order till date of payment.

4 . Since no interim order was passed in favour of the petitioners in these petitions, question of reducing interest from the date of allotment till the date of interim order as passed in the earlier writ petitions, does not arise. For that reason and for the reason that the petitioners came to Court about ten years after the cause of action accrued to them,

I find no merits in these writ petitions.

5. Hence, the writ petitions are dismissed. No costs.

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(C.Y.SOMAYAJULU, J)

Dated February 4, 2005.

YCR/CS

To

1 The Vice Chairman, A.P.Housing Board, Gruhakalpa, M.J.Road, Hyderabad.
2 The Executive Engineer, North Division, A.P.Housing Board, Bharathnagar, Hyderabad.
3 The Secretary to Government, Government of Andhra Pradesh, Municipal and Housing Department, Secretariat, Hyderabad.

4. 2 CCs to G.P. for Housing, High court Buildings, Hyderabad (OUT)

5. 2 C.D. copies.